

**Brenna K. Legaard, OSB No. 00165**

E-mail: [brenna@chernofflaw.com](mailto:brenna@chernofflaw.com)

**Susan D. Pitchford, OSB No. 98091**

E-mail: [sdp@chernofflaw.com](mailto:sdp@chernofflaw.com)

**CHERNOFF, VILHAUER, McCLUNG & STENZEL, LLP**

601 SW Second Avenue, Suite 1600

Portland, OR 97204

Telephone: (503) 227-5631

Fax: (503) 228-4373

Attorneys for Defendants Shinhan Art Materials, Inc.,  
Shinhan USA, Inc., and C2F Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

**TOO MARKER PRODUCTS, INC.,** a  
Japanese corporation, and  
**IMAGINATION INTERNATIONAL,**  
**INC.,** an Oregon corporation,

Plaintiffs,

v.

**SHINHAN ART MATERIALS, INC.,** a  
Korean corporation, **SHINHAN USA,**  
**C2F, INC.,** an Oregon corporation, and  
**BONGKEUN HAN,** an individual,

Defendants.

Civil Case No. 09-1013-PK

**DECLARATION OF WILLIAM M. COLE IN  
SUPPORT OF DEFENDANTS' RESPONSE  
TO PLAINTIFFS' MOTION FOR  
TEMPORARY RESTRAINING ORDER**

**TRADEMARK CASE**

I, William M. Cole, hereby declare under penalty of perjury:

1. I am the President and CEO of Bill Cole Enterprises, Inc., a Massachusetts corporation, ("BCE") located at 49 Teed Drive, Randolph, MA 02368. I am personally knowledgeable regarding the subject matter stated herein and make this declaration in support of Defendant's Response to Plaintiff's Motion for Temporary Restraining Order.

2. BCE was established in 1973, currently has sales of approximately \$1 to 2.5 Million, and has 5 to 9 employees. BCE specializes in selling general supplies for collectibles and art supplies used for comic book art such as professional art markers.

3. BCE carries an array of professional art markers used for comic art, including both COPIC and TOUCH. BCE is a retailer whose sales are made online and at tradeshow and conventions.

4. BCE has carried the COPIC product line for approximately 4 years. BCE began carrying the TOUCH Art Marker in 2009 when it became aware of the high quality and value of SHINHAN art materials including the TOUCH Art Marker. In addition, in 2008, I began having difficulty obtaining COPIC markers from Too Marker's distributor in the United States.

5. Below is a table showing the four (4) tradeshow in 2009 that BCE attended. At all of these tradeshow, I carried both TOUCH Art Markers and COPIC products, except at the Savannah show where I only carried TOUCH. There were other retailers of COPIC at all four of these shows including Savannah. I was the only SHINHAN representative at these tradeshow with the exception of the Savannah College Art Materials Show, where I am aware there was one other reseller of TOUCH Art Markers.

Date	Name of Show	Location	COPIC Sales	TOUCH Sales
April 2009	Anime Show	Boston	Yes	Yes
July 2009	Anime Expo	San Diego	Yes	Yes
Sept. 2009	Anime Show	NYC	Yes	Yes
Oct. 2009	Savannah College Art Materials Show	Georgia	Not by BCE but other retailers	Yes

6. At these shows, there were numerous banners and displays that clearly delineated the different origins of COPIC and TOUCH.

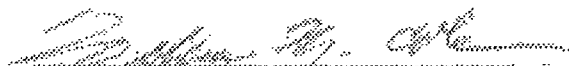
7. Given the relatively close proximity of other booths to mine and the degree of advertising material available to consumers, it was common knowledge that both COPIC products and SHINHAN's TOUCH Art Markers were being sold side by side at these tradeshow.

8. In particular, whenever a potential customer came up to my booth to inquire about art markers for sale, we suggested that they try both the TOUCH and COPIC products side by side at the booth. We explained that both companies made professional high quality art markers but they had some differences. Some of these users purchased TOUCH and some purchased COPIC products. While the TOUCH Art Marker was less expensive than a comparative COPIC marker, price was not a key factor in the decision making process among comic anime and manga artists attending the show. No one indicated any confusion regarding the source of either product.

9. There may have been other tradeshows that my company attended where both COPIC and TOUCH products were sold side by side, but the short time frame given me to prepare this declaration has made it impossible for me to perform a thorough search of my company's records.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Dated: November 6, 2009

  
William M. Cole